

August 6, 2018

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

RE: Reichlin Property  
Forest Conservation Variance  
Tracking # 01-18-2779

Dear Mr. Leary:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department on August 2, 2018. This request seeks approval for the removal of a specimen tree in poor condition due to safety reasons. The specimen tree is a 32-inch diameter white oak (Quercus alba) in extremely poor condition and in close proximity to the existing house. This tree was shown to be retained on the recent minor subdivision plan; however, it is a danger and must be removed.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d) must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to address a safety concern posed by the specimen tree. The existing dwelling could be irreparably damaged were the tree to fall on it, thus denying the petitioner of all beneficial use of the property. Therefore, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due to the unique circumstances associated with the proximity of

Mr. Devin Leary  
Reichlin Property  
Forest Conservation Variance  
August 6, 2018  
Page 2

this tree to the existing house that was built well prior to the minor subdivision. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The removal of a lone hazardous tree that is dying will have no appreciable effect on the character of the neighborhood, especially given that several other specimen trees remain on the property. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The tree to be removed is not within close proximity to any stream, wetland, or associated buffer. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Permitting the removal of a dying or dead specimen tree on a property that has complied with the Forest Conservation Law would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that all of the above criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code. Mitigation for removal of this tree is not required given its poor condition.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

Mr. Devin Leary  
Reichlin Property  
Forest Conservation Variance  
August 6, 2018  
Page 3

DVL/ges

c. Marian Honeczy, Maryland DNR